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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/987,898	11/16/2001	Katsuhiko Nishikawa	826.1771	7809

21171 7590 07/31/2003

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[REDACTED] EXAMINER

NGUYEN, HIEP T

[REDACTED] ART UNIT [REDACTED] PAPER NUMBER

2187

DATE MAILED: 07/31/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/987,898	NISHIKAWA, KATSUHIKO	
	<b>Examiner</b>	<b>Art Unit</b>	
	Hiep T Nguyen	2187	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 16 November 2001.

2a) This action is FINAL.                  2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-17 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) 5-13 is/are allowed.

6) Claim(s) 1-4 and 14-17 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
 If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
 a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ .
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .	6) <input type="checkbox"/> Other: _____ .

## DETAILED ACTION

1. Claims 1-17 are presented for examination.

### ***Claim Rejections - 35 USC § 112***

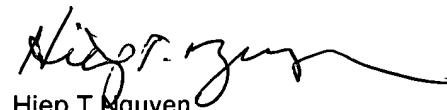
2. Claims 1-4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
  - a. As per claim 1: line 6, the use of "the free capacity" by itself is vague and indefinite. Should it be –the free capacity of the data accumulation unit--? See also claim 16, line 8.
  - b. As per claim 14, line 9, the intended means for "a data accumulation unit" is unclear. It appears that the "data accumulation unit" should be replaced with –data accumulation unit of a storage service providing device—so that it is distinguished from the data accumulation unit of the user terminal, as recited in line 6. Similarly, in line 14, "data accumulation unit" should be replaced with –data accumulation unit of the storage service providing device--.
  - c. As per claim 16: line 2, it appears that "comprising computer executable codes" should be inserted right after "program" for clarity and avoid a possible problem under 35 USC 101 problem.
  - d. As per claim 17: Line 2, it appears that "wherein:" should be replaced with –the process further comprising:--. In line 3, replace "it is determined" with –determining--.
  - e. Claims 2-4 and 15 are rejected as including the deficiencies in the independent claims 1 and 14.

### ***Allowable Subject Matter***

3. Claims 5-13 are allowed over the prior art of record.
4. Claims 1-4 and 14-17 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

**Conclusion**

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
  - a. Noya et al., 5,309,451, teach storage system that prefetches parity data from disk drives to the cache so that new parity data can be calculated when the cache memory reaches a predetermined level of fullness.
  - b. Brooks e al., 5,483,276, teach a user that detects when the amount of data stored in a memory within the unit is approaching the capacity of he memory and provides indication that the unit should e docked for uploading data.
  - c. Faris et al., 5,488,359, teach a method and apparatus for setting a memory full condition in a selective call receiver.
  - d. Rosich et al., 5,551,002, teach storage system that detects when the cache capacity reaches a predetermined level of fullness, the cache is then preparing cached data for destaging to the lover level memory.
  - e. Jerding et al., US 2002/0104097, teaches a data storage system that determines available storage before down loading data.
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hiep T Nguyen whose telephone number is (703) 305-3822. The examiner can normally be reached on Monday-Friday from 9:30 a.m. to 6:00 p.m.
7. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Donald Sparks can be reached on (703) 308-1756. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 746-7239 for regular communications and (703) 746-7238 for After Final communications.
8. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-9600.



Hiep T. Nguyen  
Primary Examiner  
Art Unit 2187